

FIRST REGULAR SESSION

# SENATE BILL NO. 524

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCOTT.

Read 1st time February 19, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

2133S.011

## AN ACT

To repeal sections 324.520 and 324.522, RSMo, and to enact in lieu thereof three new sections relating to tattooing, branding, and body piercing, with penalty provisions.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 324.520 and 324.522, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 324.520, 324.522, and 324.523, to read as follows:

324.520. 1. As used in sections 324.520 to 324.524, the following terms mean:

(1) "Body piercing", the perforation of human tissue other than an ear for a nonmedical purpose;

(2) "Branding", a permanent mark made on human tissue by burning with a hot iron or other instrument;

(3) "Controlled substance", any substance defined in section 195.010, RSMo;

(4) "Minor", a person under the age of eighteen;

(5) "Tattoo", one or more of the following:

(a) An indelible mark made on the body of another person by the insertion of a pigment under the skin; or

(b) An indelible design made on the body of another person by production of scars other than by branding.

2. No person shall knowingly tattoo, brand or perform body piercing on a minor unless such person obtains the prior written informed consent of the minor's parent or legal guardian. The minor's parent or legal guardian shall

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

18 execute the written informed consent required pursuant to this subsection in the  
19 presence of the person performing the tattooing, branding or body piercing on the  
20 minor, or in the presence of an employee or agent of such person. Any person  
21 who fraudulently misrepresents himself or herself as a parent is guilty of a class  
22 B misdemeanor.

23 3. A person shall not tattoo, brand or perform body piercing on another  
24 person if the other person is under the influence of intoxicating liquor or a  
25 controlled substance.

26 4. A person who violates [this section] **any provisions of sections**  
27 **324.520 to 324.526** is guilty of a misdemeanor and shall be fined not more than  
28 five hundred dollars. If there is a subsequent violation [of this section] within  
29 one year of the initial violation, such person shall be fined not less than five  
30 hundred dollars or more than one thousand dollars.

31 5. No person under the age of eighteen shall tattoo, brand or perform body  
32 piercing on another person.

324.522. 1. No practitioner of tattooing, body piercing or branding shall  
2 practice and no establishment in which tattoos, body piercing or brandings are  
3 applied shall be operated without a license issued by the director of the division  
4 of professional registration. The license fee for each practitioner and each  
5 establishment shall be established by rule.

6 2. The director of the division of professional registration shall promulgate  
7 rules and regulations relative to the hygienic practice of tattooing, body piercing  
8 and branding, [and] **the** sanitary operations of tattoo, body piercing and branding  
9 establishments, **and the educational and training requirements for**  
10 **applicants applying to receive and practitioners desiring to maintain**  
11 **a license to practice any profession that is licensed or regulated under**  
12 **sections 324.520 to 324.526.** Such rules and regulations shall include:

13 (1) Standards of hygiene to be met and maintained by establishments and  
14 practitioners in order to receive and maintain a license for the practice of  
15 tattooing, body piercing and branding;

16 (2) Procedures to be used to grant, revoke or reinstate a license;

17 (3) Inspection of tattoo, body piercing and branding establishments; and

18 (4) Any other matter necessary to the administration of this section.

19 3. Any rule or portion of a rule, as that term is defined in section 536.010,  
20 RSMo, that is created under the authority delegated in sections 324.520 to  
21 [324.524] **324.526** shall become effective only if it complies with and is subject

22 to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028,  
23 RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the  
24 powers vested with the general assembly pursuant to chapter 536, RSMo, to  
25 review, to delay the effective date or to disapprove and annul a rule are  
26 subsequently held unconstitutional, then the grant of rulemaking authority and  
27 any rule proposed or adopted after August 28, 2001, shall be invalid and void.

**324.523. 1. The division may refuse to issue or cause a complaint**  
2 **to be filed with the administrative hearing commission as provided by**  
3 **chapter 621, RSMo, against any holder of any certificate of registration**  
4 **or authority, permit or license required under sections 324.520 to**  
5 **324.526, or any person who has failed to renew or has surrendered his**  
6 **or her certificate of registration or authority, permit, or license for any**  
7 **one or any combination of the following causes:**

8 (1) Use or illegal possession of any controlled substance, as  
9 defined in chapter 195, RSMo, or use of any alcoholic beverage to an  
10 extent that such use impairs a person's ability to perform the work of  
11 any profession that is licensed or regulated under sections 324.520 to  
12 324.526;

13 (2) Final adjudication and finding of guilt, or the entrance of a  
14 plea of guilty or nolo contendere, in a criminal prosecution under the  
15 laws of any state or of the United States, for any offense reasonably  
16 related to the qualifications, functions, or duties of any profession that  
17 is licensed or regulated under sections 324.520 to 324.526, and the  
18 regulations promulgated thereunder, for any offense an essential  
19 element of which is fraud, dishonesty, or an act of violence, or for any  
20 offense involving moral turpitude, whether or not sentence is imposed;

21 (3) Use of fraud, deception, misrepresentation, or bribery in  
22 securing any certificate of registration or authority, permit or license  
23 required under sections 324.520 to 324.526;

24 (4) Obtaining or attempting to obtain any fee, charge, tuition, or  
25 other compensation by fraud, deception, or misrepresentation;

26 (5) Incompetence, misconduct, gross negligence, fraud,  
27 misrepresentation, or dishonesty in the performance of the functions  
28 or duties of any profession that is licensed or regulated under sections  
29 324.520 to 324.526;

30 (6) Violation of, or assisting or enabling any person to violate,  
31 any provision of sections 324.520 to 324.526, or any lawful rule or

32 regulation adopted under sections 324.520 to 324.526;

33 (7) Impersonation of any person holding a certificate of  
34 registration or authority, permit, or license, or allowing any person to  
35 use his or her certificate of registration or authority, license, permit,  
36 or diploma from any school;

37 (8) Disciplinary action against the holder of a license or other  
38 right to practice any profession regulated under sections 324.520 to  
39 324.526, granted by another state, territory, federal agency, or country  
40 upon grounds for which revocation or suspension is authorized in this  
41 state;

42 (9) Final adjudication by a court of competent jurisdiction that  
43 a person is insane or incompetent;

44 (10) Assisting or enabling any person to practice or offer to  
45 practice any profession licensed or regulated under sections 324.520 to  
46 324.526, who is licensed and is currently ineligible to practice under  
47 sections 324.520 to 324.526;

48 (11) Causing the division to issue a certificate of registration or  
49 authority, permit, or license based upon a material mistake of fact;

50 (12) Failure to display a valid license;

51 (13) Violation of any advertisement or solicitation that is false,  
52 misleading, or deceptive to the general public, or persons to whom the  
53 advertisement or solicitation is primarily directed;

54 (14) Failure or refusal to properly guard against contagious,  
55 infectious, or communicable diseases and the spread thereof.

56 2. After the filing of such complaint, the proceedings shall be  
57 conducted in accordance with the provisions of chapter 621,  
58 RSMo. Upon a finding by the administrative hearing commission that  
59 grounds, provided in subsection 1 of this section, for disciplinary action  
60 are met, the division may, singly, or in combination, censure or place  
61 the person named in the complaint on probation on such terms and  
62 conditions as the division deems appropriate for a period not to exceed  
63 five years, or may suspend, for a period not to exceed three years, or  
64 revoke the license, certificate, or permit.

65 3. The division, acting upon its own knowledge or written or  
66 verified complaint filed by any person, may discipline a person as  
67 provided in subsections 1 or 2 of this section or the division may bring  
68 an action to enjoin any person, establishment, firm, or corporation from

69 engaging in an occupation regulated by the provisions of sections  
70 324.520 to 324.526, if such person, firm, or corporation without being  
71 licensed to do so by the division, engages in or practices an occupation  
72 licensed under sections 324.520 to 324.526. The action shall be brought  
73 in the county in which such person resides, or, in the case of an  
74 establishment, firm, or corporation, where the establishment, firm, or  
75 corporation maintains its principal office; and unless it appears that  
76 such person, establishment, firm, or corporation so engaging or  
77 practicing such occupation is licensed, the injunction shall be issued,  
78 and such person, firm, or corporation shall be perpetually enjoined  
79 from engaging in such activities throughout the state.

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Bill

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